

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1186 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA sd/-

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
No
 2. To be referred to the Reporter or not? No :
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
No
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
No
 5. Whether it is to be circulated to the Civil Judge? No :

BIBIBEN A KHALIFA

Versus

ALARKHA M KHOKHAR

Appearance:

MR PM THAKKAR for Petitioner
MR AJ MEMON for Respondent No. 1, 2

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 03/03/2000

ORAL JUDGEMENT

1. This is tenant's revision under Section 29(2) of the Bombay Rent Act against concurrent Judgments and Decrees of the trial Court and the lower Appellate Court.

2. Shri P.C.Kavina for the revisionist and Shri A.J.Memon for the respondent have been heard.

3. It appears from the record that the Suit filed by the respondent was not contested by the revisionist. No written statement was filed. The trial Court, after considering the evidence brought on record, decreed the Suit after recording the findings that the defendant revisionist was in arrears of rent for more than six months which was not paid within a month of service of notice of demand and ejection. The trial Court further found that the plaintiff succeeded in establishing that the premises was reasonably and bonafide required by the landlord for personal use. On the point of comparative hardship the trial Court found that greater hardship would be caused to the landlord if the decree for eviction is refused. With these findings the Suit for eviction of the revisionist and recovery of arrears of rent and mesne profit was decreed.

4. The tenant filed Appeal. In Appeal the Appellate Court confirmed the Judgment and Decree of the trial Court.

5. After having heard the learned Counsel for the parties and examining the two judgments, I do not find any error of law in deciding the three issues by the trial Court and also those points by the lower Appellate Court. It is a case of concurrent findings of fact recorded by the two Courts below and those findings are neither illegal nor perverse. Hence, interference in revision is not permissible. It may also be mentioned that since no written statement was filed and the Suit was not contested in the trial Court, the trial Court had no option but to decree the Suit. If the Suit was decreed without contest from the side of the revisionist the Appellate Court had also no option but to dismiss the Appeal. As such the revision is without merit and is liable to be dismissed.

The Revision Application is dismissed with no order as to costs.

sd/-

Date : March 03, 2000 (D. C. Srivastava, J.)

sas